

REMARKS/ARGUMENTS

In the Office Action mailed December 15, 2008, claims 1-21 were rejected. In response, Applicants hereby request reconsideration of the application in view of the proposed amendments and the below-provided remarks. Applicants submit herewith a Request for Continued Examination (RCE).

For reference, claims 1, 14, 15, and 21 are amended. In particular, claim 1 is amended to clarify the language of the claim, and to recite analyzing the perceptible signaling to verify compatibility of the personal device and the base station. Claims 14, 15, and 21 are each amended to recite similar subject matter. These amendments are supported, for example, by the subject matter described at page 3, line 27, through page 4, line 19, of the specification of the present application. These amendments are also supported, for example, by the subject matter described at page 7, lines 25-30, and at page 8, lines 20-24, of the specification of the present application.

Claim Rejections under 35 U.S.C. 102 and 103

Claims 1, 5, 8, 10, 15, 16, 18, and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by Kulha et al. (U.S. Pat. No. 5,973,611, hereinafter Kulha). Additionally, claims 2, 14, and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kulha in view of Hussey et al. (U.S. Pat. No. 6,130,622, hereinafter Hussey). Additionally, claims 3 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kulha and Hussey and further in view of Stahl et al. (U.S. Pat. No. 4,630,035, hereinafter Stahl). Additionally, claims 6, 7, 11-13, 17, and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kulha in view of Macfarlane (U.S. Pat. Pub. No. 2003/0231550, hereinafter Macfarlane). Additionally, claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kulha in view of Wallace (U.S. Pat. No. 5,684,337, hereinafter Wallace). However, Applicants respectfully submit that these claims are patentable over Kulha, Hussey, Stahl, Macfarlane, and Wallace for the reasons provided below.

Independent Claim 1

Claim 1 recites “providing signaling perceptible to a human as part of a communication between the base station and the personal device” (emphasis added) and “analyzing the perceptible signaling to verify compatibility of the personal device and the base station” (emphasis added).

While the details of the specification are not read into the limitations of the claim, it may be useful to refer to the specification of the present application for a contextual understanding of the limitations recited in the claim. The specification of the present application describes a wireless security system. In one embodiment, the system is a wireless passive entry system for a vehicle. The system utilizes one or more signals between a remote, or personal device, and a base station to grant access to the vehicle. In certain embodiments, the system uses signals that are perceptible to a human. Some examples of perceptible signals include audible sounds and visible lights. The system analyzes the perceptible signals to determine whether or not the personal device, and the person carrying the personal device, is authorized to gain access to the vehicle. Page 3, line 27, through page 4, line 19; page 7, lines 25-30; and page 8, lines 20-24.

In contrast to the language recited in the claim, Kulha does not disclose analyzing a perceptible signal to verify compatibility of a personal device and a base station. Kulha merely discloses using a key fob with peripheral outputs which consist of beepers or LEDs to communicate strictly to the user the status of the handsfree remote. Kulha, col. 4, lines 6-10. While the peripheral outputs of Kulha may be perceptible to a user, the peripheral outputs of Kulha are not used to verify compatibility between a base station and a remote key fob. Rather, Kulha is merely concerned with alerting the user to the status of the system. Although Kulha mentions using beepers or LEDs, Kulha does not disclose performing any type of signal analysis on the beeper or LED signals to verify compatibility or to grant access. Therefore, Kulha does not disclose analyzing a perceptible signal to verify compatibility of a personal device and a base station because Kulha merely teaches a warning signal to communicate a status to the user.

For the reasons presented above, Kulha does not disclose all of the limitations of the claim because Kulha does not disclose analyzing a perceptible signal to verify compatibility of a personal device and a base station, as recited in the claim.

Accordingly, Applicants respectfully assert claim 1 is patentable over Kulha because Kulha does not disclose all of the limitations of the claim.

Independent Claim 14

Applicants respectfully assert independent claim 14 is patentable over Kulha at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, claim 14 recites “the personal device is configured to receive and analyze the perceptible signaling to verify compatibility of the personal device and the base station” (emphasis added).

Here, although the language of claim 14 differs from the language of claim 1, and the scope of claim 14 should be interpreted independently of claim 1, Applicants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejection of claim 14. Accordingly, Applicants respectfully assert claim 14 is patentable over Kulha because Kulha does not disclose analyzing a perceptible signal to verify compatibility of a personal device and a base station, as recited in the claim.

Independent Claim 15

Applicants respectfully assert independent claim 15 is patentable over Kulha at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, claim 15 recites “the base station is configured to receive and analyze the perceptible signaling to verify compatibility of the personal device and the base station” (emphasis added).

Here, although the language of claim 15 differs from the language of claim 1, and the scope of claim 15 should be interpreted independently of claim 1, Applicants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejection of claim 15. Accordingly, Applicants respectfully assert claim 15 is patentable over Kulha because Kulha does not disclose analyzing a perceptible signal to verify compatibility of a personal device and a base station, as recited in the claim.

Independent Claim 21

Applicants respectfully assert independent claim 21 is patentable over Kulha at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, claim 21 recites “a communication array for communication between the base station and the personal device to establish that the personal device is spatially close to the base station to provide secured access, wherein said communication comprises a communication perceptible to a human, wherein the perceptible communication is analyzed to verify compatibility of the personal device and the base station, and wherein said personal device includes a control means for deactivating the wireless transmission” (emphasis added).

Here, although the language of claim 21 differs from the language of claim 1, and the scope of claim 21 should be interpreted independently of claim 1, Applicants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejection of claim 21. Accordingly, Applicants respectfully assert claim 21 is patentable over Kulha because Kulha does not disclose analyzing a perceptible communication to verify compatibility of a personal device and a base station, as recited in the claim.

Dependent Claims

Claims 2-13 and 16-20 depend from and incorporate all of the limitations of the corresponding independent claims 1, 14, and 15. Applicants respectfully assert claims 2-13 and 16-20 are allowable based on allowable base claims. Additionally, each of claims 2-13 and 16-20 may be allowable for further reasons, as described below.

In regard to the rejections of claims 3 and 4, the Office Action suggests that the combination of the cited reference of Kulha in view of Hussey and Stahl teaches the limitations of claims 3 and 4. However, Applicants assert that the proposed combination of Kulha in view of Hussey and Stahl is improper. In asserting a combination of references as a basis for an obviousness rejection, the proposed combination or modification cannot change the principle of operation of the prior art. MPEP 2143.01(VI). Furthermore, the MPEP states that if the proposed modification or combination of the prior art would change the principle of operation of the prior art

invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. MPEP 2143.01(VI). Here, the combination of teachings proposed in the Office Action would change the principle of operation of Kulha.

The proposed combination of Kulha and Stahl would change the principle of operation of Kulha because the devices of Kulha and Stahl use different methods of activation. The device of Kulha relies on the user entering a zone and the remote triggering passively. In particular, Kulha implements a zone based system around the driver and passenger doors as well as the trunk of a vehicle. Kulha, col. 2, lines 57-67.

In contrast, Stahl relies on physical user input. Stahl teaches that the alarm can be tested or used to call assistance by some physical input to the control. Specifically, Stahl teaches that a button must be depressed or a physical orientation of the control itself must change in order to activate the control. Stahl, col. 5, lines 23-44. Therefore, if the system of Kulha were rearranged to require a physical input from the user, rather than function passively, the principle of operation of Kulha would change. Although both arrangements are used as activation situations, generally, the difference between using a physical input force instead of passive activation is a different principle of operation because the user would then be required to supply an input instead of the convenience of passive activation.

Therefore, since the proposed combination of Kulha and Stahl would result in a change in the principle of operation of Kulha—from passive trigger to active trigger—the proposed combination of teachings of the cited references is improper. Hence, the proposed combination of references is not sufficient to render the limitations of claims 3 and 4 as *prima facie* obvious. Accordingly, Applicants respectfully assert claims 3 and 4 are patentable over the combination of Kulha in view of Hussey and Stahl because the proposed combination of Kulha and Stahl is improper and, hence, is insufficient to establish a *prima facie* case of obviousness.

CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the proposed amendments and remarks made herein. A notice of allowance is earnestly solicited.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

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